MODEL CONSTITUTION FOR ANY ISLAMIC INSTITUTE

CONTENTS

PREFACE

Presently, numerous questions are posed regarding the political aspect of Islam on practically all levels, from the administration of the state to the governing of an Islamic Institute.

Due to the increase of Muslim organisations we have drawn up a model constitution for any Islamic Institute and pray that it reaches all those who will truly and sincerely try to saw of the chains of non-Islamic constitutions and give preference to the Islamic method above all ways.

A few pertinent directives are listed below to serve as broad guidelines for any Muslim Institute to become Islamic:-

1. Not to accept funds from the Governments;
2. To place firm trust in Allah in the running of the Institute;
3. It is better to relie on a poor pious Muslim than a wealthy unrighteous Muslim;
4. Do not relie solely on the financial handouts of a chosen few wealthy to maintain the Institute;
5. Embark on fund raising drivers which involves even the poor masses to become contributions to the Institute;
6. Avoid building extravagant structures which subsequently will require huge sums of money to maintain; - money "will be better spent" on projects which get Muslims to these structures rather than on gold and silver chandeliers;
7. Build simple, functional, easy to maintain structures;
8. Know that in our times that no man is indispensable;
9. May Allah grant the Muslims such Iman in Him that we do not stoop to being obligated to the wayward merely for their contributions;
10. It is impetative that trustees live practical Islamic lives;
11. Build according to need not as per fashion;
12. The Muslims should once again physically involve themselves in the actual construction of their structures, this is going back to the original which will produce the consequences and results of those times also;
13. The concept that our Masjid must be of the same standard as that of our mansions has no basis in Shariat.

MAY ALLAH HELP AND AID US IN IMPLEMENTING THE SHAIRIAT.

A.H. ELIAS (MUFTI)

DEEDS OF TRUST

1. NAME:
   The name of the Institute / Jamaat shall be ________________.
   (Hereafter referred to in the Constitution as the Institute /Jamaat.

2. ADDRESS:
   The office of the Institute / Jamaat shall be situated in ________________

3. Basic founding principles:
   The following clauses (A) and (B) embodying the basic the principles will be permanent and entrenched. These clauses can never be changed. Any member or Trustee who attempts to alter or amend the entrenched clauses will automatically cease to be a member or Trustee.

   (A) The basis of the functions of this Institute / Jamaat will strictly be the Quran and Blessed Sunnah of Rasulullah (Sallallahi Alaihi Wa Sallam) and the Sahabah-e-Keraam (Radiallaho Anhum), according to the interpretation and accepted views of the Ahlus Sunnah wal Jamaah and as expounded by the four recognised Mazaahab of jurisprudence viz. Hanafi, Shafii, Maliki and Hambali.

   (B) The meaning of Ahlus Sunnah wal Jamaah will be as expounded by the great Ulama of Deoband, India:
   Moulana Mohammed Qasim Nanotwi (Rahmatullah Alaihi)
   Moulana Khalil Ahmed Saharanpuri (Rahmatullah Alaihi)
   Moulana Mahmoodul Hasan Deobani (Rahmatullah Alaihi)
   Moulana Ashraf Ali Thanwi (Rahmatullah Alaihi) and Moulana Hussein Ahmed Madani (Rahatullah Alaihi).

4. AFFILIATION:
   The Institute /Jamaat will be affiliated to any one of the following reliable Ulama Group:
   A. Jamiatul Ulama of Transvaal
   B. Jamiatul Ulama of Natal
   C. Jamiatul Ulama of Eastern Cape.
   D. Majlisul Ulama of South Africa.

5. AIMS AND OBJECTIVES:
   A. To enjoin what is right and forbid what is wrong and to foster the true Aqaaid believes and practices of the Ahlus Sunnah wal Jamaah.

B. To protect, preserve and promote the Sunnah of Rasulullah (Sallallahu Alaihi Wa Sallam) and the Sahabah -E-Keraam (Radiallaho Anhum).
C. To protect the Deen from all repugnant innovations.
D. To protect, preserve and promote the religious rights of Muslims.
E. To promote the religious, social, spritual and educational advancement of Muslim children.
F. To further brotherhood and co-operation in the Muslim community and to co-ordinate all Muslim activities in the locality.
G. To found, build, maintain and own Islamic centres, libraries, masaajids, madrasahs and other similar Institutions for the benefit of the Muslims residing in ____________________ and neighbouring and surrounding towns and to promote essentially the religious needs of the Muslim community.
H. To manage and supervise, control and operate kabrastaans (Muslim graveyards) and the funerals of any deceased Muslim persons.
I. To promote, develope and unify the Islamic educational system.
J. To promote, develope and maintain deeni, cultural, educational, social, economic and charitable services.
K. To print and publish Islamic literature, periodicals, books or leaflets that the Institute /Jamaat may deem necessary.
L. To co-operate with other Institutes having similar aims and objects.
M. To sell or lease immovable property.
N. To sell, purchase or acquire any moveable property, securities or shares.
O. To deal with the funds of the Institute /Jamaat in terms of the Shariat.
P. To invite Ulama for lectures, discussions etc.
Q. To Institute legal action by resorting to the courts of the land wherever possible in order to safeguard and defend the teachings and laws of Islam.
R. To use all such means as are legal and permissible under Islamic law to foster the beliefs and practices of Ahlus Sunnat wal Jamaah.
S. Basically to deal with any or all matters relevant to the Deen of Islam and the Muslim community.

6. TRUSTEESHIP.

Only such persons may become trustees who belong to the Ahlus Sunnat wal Jamaah and subscribe wholly to the basic principles stated above in clauses 2 (A) and 2 (B), and who further fulfils the Deeni (religious) requirements of a trustee (see clause 8).

7. APPOINMENT OF TRUSTEES:

A person may become a trustee by being one of the following:

A. The waaquif (donor) of the Masjid land or building.
B. The person/s responsible for the construction of the building used for Deeni purposes.
C. The regular mussalies in the case of an existing Masjid.

D. The adult Muslim males residing in the immediate neighbouringhood of the Masjid, in the case of a new Masjid.

8. REQUIREMENTS OF A TRUSTEE, WHO MUST:
   A. Be baaligh, sane and a Muslim.
   B. Perform the five daily salat regularly.
   C. Perform his Jumuah salat.
   D. Pay zakat, if liable.
   E. Have qualities of taqwah (righteousness) and not shirk in Islamic administration due to fear of taunts and critcism by people.
   F. Be well versed in the laws of waqf, in the case of waqf property.
   G. Be a reliable witness, whose evidence is admissible in an Islamic court of law.
   H. Not be a faasiq (one who openly breaks the laws of Islam).
   I. Be free from serious physical or mental infirmities.
   J. Be intelligent and have the ability to safeguard Islamic interest.
   K. Have courage and energy to defend Islam.
   L. Be of upright character and free from immoral blemish.

9. REGULAR MUSSALIES, WHO ARE:
   A. Those who perform at least their daily Fajr and Esha salat on most days of the week at the Masjid. In this case Masjid...............
   B. Male, sane and baaligh.
   C. Of good reputation and of virtuous conduct.
   D. In possession of knowledge of the requisities and qualifications of trustees.
   E. Capable of making a choice and have the necessary insight and judgement.

10. NUMBER OF TRUSTEES:
The trustees shall make up the shura of the Institute / Jamaat, and the Shura shall consist of 5, or 7, or 11, trustees.

11. PERIOD OF OFFICE:
The members of the Shura shall hold office for a period of ten (10) years unless earlier terminated in terms of the provisions included in this constitution.

12. APPOINMENT OF THE AMEER (SUPREME HEAD AND PRESIDENT):
The Ameer shall be appointed by mutual agreement of the Shura members of the Institute / Jamaat.

13. THE AMEER:

A. Shall be the supreme head of this Institute / Jamaat.

B. Should hold office for life.

C. Shall have full power, right and authority to govern, operate and direct the affairs of the Institute / Jamaat, with or without consultation with or consent of members, provided that all directives and decisions of the Ameer are within the framework of Islamic law and that these do not contravene or contradict the blessed laws of Islam.

D. Shall not have the power or authority to pass a ruling or decision contrary to the Shariah law of Islam.

E. Shall be relieved of his post if he conducts the affairs of the Institute / Jamaat contrary to the laws of Islam.

F. His directives and verdicts shall be binding, provided that they are in conformity with the laws of Islam.

14. PROCEDURE TO BE OBSERVED IN THE EVENT OF THE NEED TO DISMISS THE AMEER OR TRUSTEE. THE AMEER IS A TRUSTEE.

A. Fatwa or Islamic legal directive from recognised Mufti/s (Muslim Jurist) shall be obtained from recognised Islamic authorities in order to ascertain whether the Ameer's action, verdict or directive is contrary to Islamic laws.

B. If the Fatwa mentioned in 14.B establishes that the trustee or Ameer has contravened Islamic laws, members shall approach the said trustee involved with a view to obtaining a withdrawal or retraction of the contravention in question.

C. In the event of the trustee / Ameer involved refusing to accept the Fatwa mentioned in 14.A, the trustee /Ameer shall automatically cease to hold his post. The post will be vacant and if it be the post of Ameer, then the existing trustees will appoint a new Ameer by mutual agreement.

15. VACANCY:

Should any vacancy arise in the Shura, either as a result of resignation, death or termination of office of any trustee, then the procedure outlined in section 7 above will come into effect.

16. MANAGEMENT OF TRUST:

All the business and affairs of the trust shall be managed and controlled by the Shura, who shall have full power to carry out the objects of the trust as mentioned before, and who shall hold the funds in trust for the application of the income and/or capital for the promotion of such objects, provided that every act or decision of the Shura shall accord with Islamic law.

17. INDEMNITY OF TRUSTEES:
Every member of the Shura or other office or servant of the Trust shall be and is hereby indemnified against losses, expenses or damages incurred in the discharge of or arising out of his duties.

18. REMOVAL OF TRUSTEE:
The office of trustee shall be vacated:

A. If he be found lunatic or becomes of unsound mind or be declared uncapable of managing his own affairs.
B. If he resigned his office by notice in writing to the trustees, at least ....months in advance.
C. If he be found guilty by the trustees of conduct which according to Shariah renders him unsuitable to hold the office of trustee.
D. If he absents himself from three (3) consecutive meetings of trustee without having obtained leave of absence from the Ameer or without a valid reason.
E. If he becomes insolvent by order of any competent court, provided that he is found guilty of misconduct.
F. If he shows no interest in the affairs of the trust, or otherwise shows neglect in respect thereof.

19. INTERPRETATION:
Any dispute with regards to the interpretation of this constitution shall be resolved by the Shura whose decision shall be final and binding.

20. AMENDMENTS:
Any amendments to this constitution shall be submitted for approval to the Shura, whose approval in writing shall be necessary for any amendments hereto.

21. POWER TO SUE AND BE SUED:
The Institute / Jamaat may sued and be sued and may enter into contracts and agreements of whatsoever nature provided for within the ambit of Shariah.

22. FINANCE:
A. The income of the Institute /Jamaat shall be applied solely towards the promotion of the object/s of the Institute / Jamaat.
B. The treasurer shall receive and keep funds of the Institute / Jamaat and deposit same in an approved bank or building society account held and operated in the name of the Institute / Jamaat.

C. True accounts shall be maintained of the sums of money received and expended by the Institute /Jamaat, and the treasurer shall prepare or assisted in preparing an audited financial statement and balance sheet to the Shura on an annual basis.

D. Funds collected in the name of the Masjid shall be kept in a bank account which shall not be operated in the name of the Masjid.

23. DEBT:

A. Debt shall not be incurred in the name of the Masjid even for the needs and requirements.of the Masjid.

B. The Masjid is not a legal person and as such cannot assume duties, liabilities, responsibilites nor can it generally act in law.

C. The Masjid may not sue or be sued in its own name in any court of law.

24. THE MASJID:

A. The Masjid is waqf (trust) property. Ownership of the Masjid is vested solely in Allah Ta'ala. The Masjid is not owned by any individual organisation or the Muslim community.

B. The Masjid can never be sold, exchanged, given away or alienated in any way whatsoever.

25. THE MUSSALIS:

A. The Mussalis (those who perform salat in the Masjid) shall not interfere in the administration of the Masjid. The trustees alone are responsible for such administration.

B. In administering the Masjid, should the trustees act in conflict or in violation of the Shariah, then even a single Mussali shall have the right to object and can insist upon the trustees rectifying the wrong.

26. THE RIGHT OF ADMISSION AND WORSHIP IN THE MASJID:

A. Only adherents of the Ahle Sunnah wal Jamaa (members of the four Mazhabs viz. Hanafi, Shafii, Maliki and Hambali) have the right of admission and worship in the Masjid.

B. Persons belonging to any sect outside the fold of Ahlus Sunnah wal Jamaa cannot enter the Masjid nor worship inside the Masjid in their own right, and they shall possess no such right.

C. In particular, members of the following sects and religions are debarred from entering the Masjid, not withstanding their claims to being Muslims: Qadianis, Ahmadis, all the followers of Mirza Gulam Ahmad, Shias and Bahais.

D. Right of admission to the Masjid is reserved. The trustees, acting in conformity with a directive obtained from the Ulama, have the right to debar any person whomsoever from the Masjid. The decision of the trustees supported by a Fatwa from the Ulama will be regarded as final in this matter.

27. APPOINTMENT OF SUB-COMMITTEES:
The trustees may from time to time appoint sub-committes consisting of one or more members of their body, or any other person or persons as they may think fit for the purpose of managing any department of the trust, and may delegate any of their powers to such sub-committees, and from time to time revoke the same, and discharge any such sub-committee wholly or in part. Any sub-committee so formed shall in the exercise of such powers so delegated conform to any regulations and instructions which may from time to time be imposed upon or given to it by the Shura.

28. RESOLUTION OF SHURA:
A resolution in writing and signed by all the members of the Shura shall be a resolution of the Institute /Jamaat.

29. PROCEEDINGS OF SHURA:
A. The Shura shall meet at the times and places fixed by the Ameer.
B. At the first Mashwara (Islamic meeting) of the Shura, the trustees shall elect a Naib Ameer (vice Ameer), Nazim (secretary) and Khasin (treasurer) from amongst their number.
C. A simple majority of the Shura shall form a Quorum for the meeting thereafter.
D. If both the Ameer and Naib (vice) Ameer are absent from a meeting, the members shall choose one of the other trustees to preside over the meeting.
E. The Shura may review the office of Ammer, Naib Ameer, Nazim and Khazin if it is deemed necessary.

30. MASHWARA PROCEDURE:
A. Firstly an Ameer -e-Mashwara is appointed and dua (prayer) is made.
B. The Ameer will then mention whatever has to be discussed and will call for the opinions of others present.
C. Only those requested to speak should do so. Nobody else will have the right to speak simultaneously or to interrupt in any way.
D. The Ameer can ask each one in turn for an opinion or he may just call upon a few of those present.
E. Personal motivation should not direct opinions.

F. If one's opinion differ from that of another, he must not in relaliation make unjust remarks to humiliate anybody, but state his own opinion with supporting reasons.

G. If anyone sincerely wishes to talk on some important matter, he must first obtain the permission of the Ameer before expressing the same.

H. The Ameer will make the final decision.

I. Once a decision has been given, everyone is obliged to strictly abide by it. If for some reason a decision fails to produce the desired result, then nobody can complain because only Allah knows best.

J. The Mashwara is concluded with Dua and there must be no other meetings thereafter to discuss or criticise what had transpired at the Mashwara.

31. POWERS AND DUTIES OF SHURA:

A. To raise funds for the trust in such a manner as it shall consider most beneficial for the purpose thereof provided that method does not contravene the Shariat and to invest in the name of the trust such part thereof as it may deem fit.

B. To acquire in the name of the trust any lands, buildings premises and fixed or movable properties for the use to the trust and to build, pull down, rebuild, add to, alter, repair or otherwise dispose of the same.

C. To open and operate, at the discretion of the Shura, a banking/ building society account of which the signatories shall be the Ameer any of the two viz. Naib Ameer, treasurer or secretary.

D. To draw, make, endorse, accept, extend, execute and issue cheques, promissary notes, bills of exchange and other negotiable or transferable instruments, provided they are in conformity with the Shariah.

E. Lease any property belonging to the trust on such terms and conditions which conform to Shariat.

F. Evict any tenant of the trust, if any, when necessary.

G. Collect rent of the trust properties.

H. To pay out of the income of the trust expenses, rates and taxes and other debts and dues of the trust.

I. To engage or dimiss teachers, Imams, Muazzins, clerks and / other employees with or without assigning any reasons, at the decision of the Shura.

J. The Shura shall have the right to create and / or appoint and / or establish ad hoc committees or other committees as and when necessary to deal with any specific matters.

K. Generally to undertake all such matters as may be expedient to further the aims of the trust or which may be incidental or conducive to the attainment of the aforesaid objects of the trust.

L. In the case of dispute on any Deeni issue, the decision of the Darul-Ifta of the..will be final and binding.

M. To remunerate any person employed or engaged in any capacity by the Institute /Jamaat.

32. WINDING UP:

A. If for any reason the Institute / Jamaat is to be disbanded or wound up, then only that meeting, which shall be called up and convened by the Jamiatul Ulama ...., for this purpose, shall have the right to pass a resolution, in writing, authorising the dissolution of the Institute /Jamaat.

B. If upon winding up and dissolution of the Institute / Jamaat, there remains, after satisfaction of all debts and liabilities, any property whatsoever, the same shall be given or transferred to any other Institute /Jamaat / Association, which in the absolute discretion of the Jamiatul Ulama......................has objects similar to the Institute /Jamaat dissolved.